

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS & MINING  
Minerals Regulatory Program**

NOV / CO #: MN-2015-60-02 PERMIT: M/047/0032  
COMPANY / MINE Tar Sands Holdings II, LLC / Asphalt Ridge #2  
ASSESSMENT DATE June 17, 2015  
ASSESSMENT OFFICER Lynn Kunzler

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>
		<b>TOTAL HISTORY POINTS <u>0</u></b>

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event (A)  
(assign points according to A or B)

**A. EVENT VIOLATIONS (Max 45 pts.)**

1. What is the event which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>POINT RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS:**

*The inspector indicated that the event (Sediment had left the permitted area) had occurred.*



3. What is the extent of actual or potential damage: Sediment had washed out of the permitted area about half the distance to a residential area. Potential for damaging property is considered likely.

**ASSIGN DAMAGE POINTS( RANGE 0-25) 10**

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**PROVIDE AN EXPLANATION OF POINTS:** A public road right-of-way was affected, and it was determined that it would be likely it could have damaged (affected) private lands as well. Consideration was given that this resulted from a larger than normal storm – however there was no detail provided as to design criteria for sediment control measures or that the design storm was exceeded. Inspector had warned the operator of the need to upgrade or maintain sediment control structures in the past. Points were assigned just below mid-point of the range

**B. ADMINISTRATIVE VIOLATIONS (Max 25pts)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? \_\_\_\_\_  
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS N/A**

**PROVIDE AN EXPLANATION OF POINTS:** \_\_\_\_\_

**TOTAL SERIOUSNESS POINTS (A or B) 30**

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

A. IF SO--NO NEGLIGENCE; or, , IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)	1-15
Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?)	16-30

STATE DEGREE OF NEGLIGENCE Negligent

**ASSIGN NEGLIGENCE POINTS 7**

**PROVIDE AN EXPLANATION OF POINTS:** Inspector indicated that the company had been warned of the need to upgrade sediment control structures prior to this event. Points are assigned at the mid-point of the range.



**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

**Has Violation Been Abated?** No

- A. **EASY ABATEMENT** (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

	<u>Point Range</u>
Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-1 to -10
Normal Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time)	0

- B. **DIFFICULT ABATEMENT** (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

	<u>Point Range</u>
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-11 to -20
Normal Compliance (Operator complied within the abatement period)	-1 to -10
Extended Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time) (Permittee took minimal actions for abatement to stay within the limits of the violation, or the plan submitted for abatement was incomplete.)	0

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_

**ASSIGN GOOD FAITH POINTS** 11

**PROVIDE AN EXPLANATION OF POINTS:** This is considered a difficult abatement situation with rapid compliance since the abatement was completed in less than the allotted time. Good faith points were awarded at the low end of the range because abatement was only 4 days short of the allotted time of 60 days.

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>30</u>
III.	TOTAL NEGLIGENCE POINTS	<u>7</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-11</u>
	TOTAL ASSESSED POINTS	<u>26</u>
	<b>TOTAL ASSESSED FINE</b>	<b><u>\$ 660.00</u></b>